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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/753,347

12/29/2000

William D. Rupp

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EXAMINER

PATEL, JAGDISH

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

02/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/753,347

Applicant(s)

RUPP ET AL.

Examiner

JAGDISH PATEL

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 11, 12, 15 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 12, 15, 17, 19-22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 18, 23 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This communication is in response to amendment filed 10/29/07.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/07 has been entered.

#### ***Response to Amendment***

3. Claims 1 and 15 have been amended and new claims 17-27 have been added. Claims 1-6, 11-12, 15 and 17-27 are currently pending.

#### ***Response to Arguments***

Applicant's arguments concerning amended claims 1, 11 and 15 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 1, 11 and 15 have been considered but are not deemed persuasive.

The applicant's argues that Dinwoodie does not teach or imply displaying a bid adjustment configuration interface including the bid adjustment mechanism that allows a bidder to specify

an adjustment for a bid without entering an amount of the bid" as amended in claims 1, 11 and 15.

However, the examiner does not distinguish between the entity "auctioneer" and "bidder" since the claim does not distinguish between the auctioneer and the bidder in terms of the structural elements or functionality of the claim. In this regard Dinwoodie is capable of allowing a person including a bidder to specify an adjustment for a bid without entering an amount of the bid. Dinwoodie, does not require entering an amount of the bid. Furthermore, the adjustment of the bid is performed only when the auctioneer system is active, which is inherent to the Dinwoodie system.

Therefore, claims 1, 11, 15 and dependent claims stand rejected as described in office action dated 7/25/07.

Newly presented claims 19-20 and 24-25 are rejected on similar grounds as explained above. Claim 19 and 20 merely describes the bid in non-functional terms without having any (alteration of) functional limitations of method claim.

New claim 21 is already analyzed as per claim 2 and stand rejected accordingly.

### ***Claim Rejections - 35 USC § 103***

Claims 17, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinwoodie as applied to claims 1, 11 and 15 respectively above, and further in view of Fisher '896.

Dinwoodie fails teach, however, Fisher suggest that prior art failed to provide an interface which includes displaying a second bid adjustment mechanism interface to a bidder as per aforementioned claims. ( col. 4 L 12-28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dinwoodie in view of Fisher to have displaying a second bid adjustment mechanism configuration interface for a second bid for a second lot (i.e. second merchandise) because this allow a bidder to simultaneously bid for more than one lot thereby improving the efficiency of the auction process).

#### *Allowable Subject Matter*

4. Claims 18, 23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

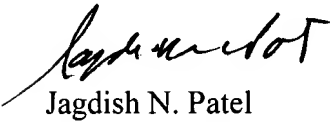
Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel  
(Primary Examiner, AU 3693)

1/8/08